



October 3, 2001

Mr. Greg S. Boling
Brown & Hofmeister, L.L.P.
1717 Main Street, Suite 4300
Dallas, Texas 75201

OR2001-4451

Dear Mr. Boling:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 152686.

The City of McKinney (the "city"), which you represent, received a request for the names, addresses, telephone numbers, and the nature of the complaints of those individuals who contacted the city's police department between the hours of 6:00 p.m. and 10:30 p.m. on July 5, 2001, and July 15, 2001, to complain about a noise disturbance, loud music, wild party or similar activity in a specific area. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with the informer's privilege. We have considered the exception you claim and reviewed the information at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 also encompasses the informer's privilege. The informer's privilege protects the identities of individuals who report violations of statutes to police, other law enforcement agencies, and certain administrative officials. *See* Open Records Decision No. 279 (1981). For information to come under the protection of the informer's privilege, it must relate to a violation of a criminal or civil statute. *See* Open Records Decision Nos. 515 (1988), 391 (1983). The informer's privilege excepts an informer's statement only to the extent necessary to protect the informer's identity. *See* Open Records Decision No. 549 (1990). Once the identity of the informer is known to the subject of the communication, the exception is no longer applicable. *See* Open Records Decision No. 202 (1978).

You state that the complainant reported a possible violation of the law to the city's police department. Based on your representations and our review of the document, we agree that the highlighted information may be withheld under section 552.101 in conjunction with the informer's privilege. Since you have not raised additional arguments against disclosure for the remaining information, which includes the nature of the complaint, we conclude that the remaining portions of the document must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

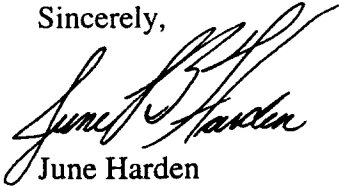
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or

complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script, appearing to read "June Harden".

June Harden
Assistant Attorney General
Open Records Division

JBH/seg

Ref: ID# 152686

Enc: Submitted documents

c: Mr. John R. Stooksberry
Attorney at Law
P.O. Box 1179
McKinney, Texas 75070
(w/o enclosures)